

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
(DANVILLE DIVISION)**

UNITED STATES OF AMERICA)
v.) Case Number: 4:18CR00011-04
DASHAUN LAMAR TRENT)

**DEFENDANT'S MOTION REQUESTING
THE PRESENCE OF MICHAEL CEASAR FERGUSON
AT SEPTEMBER 27, 2019 PRE-TRIAL HEARING**

COMES NOW Your Defendant, Dashaun Lamar Trent, by counsel, and respectfully moves this Court for entry of an ORDER directing the U.S. Marshal's Service to transport Matthew Ceasar Ferguson from his place of incarceration to the United States District Court for the Western District of Virginia to be present, in person, along with his counsel, for the pre-trial hearing now scheduled for September 27, 2019, at 10:00 a.m., and states the following in support thereof:

(1) On August 30, 2019, the United States disclosed to all counsel a letter indicating that, during a proffer session of August 28, 2019, a cooperating witness, Matthew Ceasar Ferguson (hereinafter “Ferguson”), a defendant in this case, perjured himself before the Grand Jury and made false statements to federal officers during a proffer session with the United States.

(2) The letter further discloses that, according to Ferguson, the reason he perjured himself/made false statements was upon the advice of his then counsel, Allegra Black, Esq. - then a Federal Public Defender.

(3) Counsel for Your Defendant avers that Allegra Black, Esq. is now a material witness for his defense in order to impeach the credibility of Ferguson. Your Defendant

anticipates using the compulsory process of the Court to mandate her appearance at the trial of this matter. It is anticipated that, at trial, Ferguson will be asked the reason for his perjury before the Grand Jury and his false statements before federal officers. If his answer is, "my lawyer advised me to lie," then Allegra Black's testimony about that advice is relevant, material, and probative as to Ferguson's credibility. Counsel for Your Defendant avers that Ferguson has waived the attorney-client privilege as to these matters.

(4) At the pre-trial hearing in this case of September 13, 2019, counsel for Your Defendant made clear his intention to request the issuance of a subpoena for Allegra Black, Esq. for her appearance at the trial of this matter. In response thereto, the Court directed counsel for Your Defendant to ensure that Allegra Black, Esq. be subpoenaed to appear at the September 27, 2019, pre-trial hearing.¹

(5) By letter² addressed to the Court dated September 18, 2019, the Federal Public Defender for the Western District of Virginia, Juval O. Scott, Esq., has informed the Court that "Allegra Black [does] not have my approval to provide testimony."³ Putting aside the issue of Ms. Scott's standing and whether or not the administrative regulations cited by Ms. Scott trump the Fifth Amendment and the Sixth Amendment⁴, it is clear that Ferguson should be informed by the Court of his status, if the Court be so advised, as to whether or not his privileged conversations with his then counsel, Allegra Black, Esq. have

¹ Counsel for Your Defendant has complied with the Court's Order. See ECF 756.

² ECF 774.

³ ECF 774 at page 2.

⁴ By ORDER entered September 19, 2019, the Court directed all counsel to file any response to Ms. Scott's letter not later than September 24, 2019. Counsel will comply with said ORDER under a separate filing.

been waived as to the issue of her alleged advice to commit perjury before the Grand Jury and/or make false statements to a federal officer. In the alternative, Ferguson should be permitted to state to the Court that he, in fact, waives the attorney-client privilege as to the advice allegedly given him by Allegra Black, Esq. Either way, Ferguson should be present at the hearing on September 27, 2019.

WHEREFORE, your Defendant, by counsel, moves this Court for entry of an ORDER directing that U.S. Marshal's Service transport Matthew Ceasar Ferguson from his place of incarceration to the United States District Court for the Western District of Virginia to be present, in person, along with his counsel, for the pre-trial hearing now scheduled for September 27, 2019 at 10:00 a.m.

Respectfully submitted,

DASHAUN LAMAR TRENT

By /s/ Chris K. Kowalcuk

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CERTIFICATE OF SERVICE

I, Chris K. Kowalcuk, Esquire, hereby certify that on this 19th day of September, 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.

/s/ Chris K. Kowalcuk